

Appln. No. 09/869,647
Appeal Brief Dated August 3, 2006
In Support of Notice of Appeal filed January 3, 2006

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Hiroyasu Karimoto et al.
Appln. No. : 09/869,647
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Title : CREATION ASSISTING METHOD AND APPARATUS
UTILIZING ELEMENT INDEXES

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Docket No. : 33764

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Commissioner for Patents
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Alexandria, VA 22313-1450

APPELLANTS' BRIEF

Sir:

This brief is filed in support of the Notice of Appeal mailed December 30, 2005, which was accorded a filing date of January 3, 2006. Therefore, the two-month period for filing this brief pursuant to 37 CFR § 41.37(a)(1) expired on March 3, 2006. Applicants respectfully request and petition that the response date be extended for five months, up to and including, August 3, 2006. Enclosed is a check in the amount of \$2160.00 for the extension of time fee.

Pursuant to 37 CFR § 41.37(a)(2), this brief is accompanied by the requisite fee of \$500 under 37 CFR § 41.20(b)(2). If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 33764.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Appeal Brief—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Suzanne B. Gagnon

Name of Attorney for Applicant(s)

Signature of Attorney

8-3-2006

Date

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37 CFR § 41.37(c)(1)(i) – REAL PARTY IN INTEREST

Matsushita Electric Industrial Co., Ltd., a company organized under the laws of Japan.
Contents Co., Ltd., a company organized under the laws of Japan.

37 CFR § 41.37(c)(1)(ii) – RELATED APPEALS AND INTERFERENCES

No other prior or pending appeals, interferences or judicial proceedings are known to appellants, the appellants' legal representative, or assignees which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

37 CFR § 41.37(c)(1)(iii) – STATUS OF CLAIMS

Claims 1-32 stand finally rejected by the Office Action of August 3, 2005 and are forthwith appealed to the Board of Patent Appeals and Interferences.

A clean copy of the claims presented for appeal are attached as the Appendix.

37 CFR § 41.37(c)(1)(iv) – STATUS OF AMENDMENTS

No amendments have been filed subsequent to final rejection.

37 CFR § 41.37(c)(1)(v) – SUMMARY OF CLAIMED SUBJECT MATTER

The present invention is directed toward a creation production support method and apparatus in which the element indexes of creation elements are extracted from a database based on a selection reference, and then the creation elements corresponding to the extracted element indexes whose correlation satisfies an evaluation reference are linked and outputted as a new creation (Fig. 3; page 18, line 5, to page 20, line 24). The invention also performs agitation simulation according to a pseudo physical rule with extracted scenario element indexes in order

to obtain extracted scenario element indexes that match an evaluation reference of a predetermined condition setting for a scenario creation, and then links the corresponding scenario elements to output a new scenario creation (Fig. 22; page 46, line 14, to page 47, line 25). Therefore, according to the present invention, a new creation can be produced that cannot be formed merely by the random linking of creation elements.

Specifically, claims 1 and 8 require extracting the element indexes of creation elements from a database that match a selection reference (Steps S1-S2, Fig. 3; page 18, line 5, to page 19, line 1); calculating a correlation among information sets written in the extracted element indexes, and obtaining a set of element indexes from the extracted element indexes whose correlation satisfies an evaluation reference (Step S3, Fig. 3; page 19, line 1, to page 20, line 21); and linking the creation elements corresponding to the element indexes that belong in the set, and outputting the results as a new creation (Step S4, Fig. 3; page 20, line 21-24).

Additionally, claims 19 and 31 require extraction means (8) for extracting the scenario element indexes of scenario elements from a database (4) that match a selection reference (Fig. 9, page 29, lines 11-20; see also Steps 31-32, Fig. 22; page 46, lines 14-21); agitation means (9) for performing agitation simulation according to a pseudo physical rule for the extracted scenario element indexes until a set of scenario element indexes is obtained that matches an evaluation reference of a predetermined condition setting for a scenario creation (Fig. 9; page 29, line 21, to page 30, line 12; page 32, line 2, to page 33, line 8; see also Step S33-37, Fig. 22, page 46, line 21, to page 47, line 21); scenario linking means (11) for linking the scenario element corresponding to the scenario element indexes in the set to generate and output a new scenario (Fig. 9; page 30, lines 13-19; see also Step S38, Fig. 22; page 47, lines 22-25).

**37 CFR § 41.37(c)(1)(vi) – GROUND OF REJECTION TO BE
REVIEWED ON APPEAL**

Claims 1-3, 8-10, 15-21 and 23-32 were rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,340,978 to Mindrum (hereinafter “Mindrum”) in view of U.S. Patent No. 6,694,482 to Arellano et al. (hereinafter “Arellano”).

Claims 4-5, and 11-12 were rejected under 35 U.S.C. §103(a) over Mindrum in view of Arellano, and further in view of U.S. Patent No. 6,694,311 to Smith (hereinafter “Smith”).

37 CFR § 41.37(c)(1)(vii) – ARGUMENT

Grouping of Claims

For the purposes of this appeal, the claims have been divided into six groups:

Group 1 consists of claims 1-3, 6-10, and 13-18.

Group 2 consists claims 19-23, and 29-32.

Group 3 consists of claim 24.

Group 4 consists of claims 25-28.

Group 5 consists of claims 4 and 11.

Group 6 consists claims 5 and 12.

Statement of Issues

(I) Rejection under 35 U.S.C. §103(a) over Mindrum, in view of Arellano.

(A) Whether the invention, as defined in claims 1 and 8, is patentable under 35 U.S.C. §103(a) over Mindrum, in view of Arellano. Mindrum teaches selecting for playback a time period of a recorded life story. Specifically, the issue is whether Mindrum teaches extracting element indexes for the recorded life story, and linking life story recordations corresponding to the element indexes that belong in a set to obtain a new life story. Arellano teaches

computing correlations between features and values the features hold to a user in order to detect trends and patterns in the user's data. Specifically, the issue is whether Arellano is properly combined with Mindrum, and whether Arellano teaches calculating a correlation among information sets written in the extracted element indexes to obtain a set of element indexes whose correlation satisfies an evaluation reference.

(B) Whether the invention, as defined in claims 19 and 31, is patentable under 35 U.S.C. §103(a) over Mindrum, in view of Arellano. Arellano teaches computing correlations between features and values the features hold to a user in order to detect trends and patterns in the user's data. Specifically, the issue is whether Arellano is properly combined with Mindrum, and whether Arellano teaches performing agitation simulation for the extracted scenario element indexes until a set of scenario elements is obtained that matches an evaluation reference for a predetermined condition setting for a scenario creation.

(C) Whether the invention, as defined in claim 24, is patentable under 35 U.S.C. §103(a) over Mindrum, in view of Arellano. Mindrum teaches selecting for playback a time period of a recorded life story. Specifically, the issue is whether Mindrum teaches that the scenario element indexes are regarded as physical entities and a parameter includes the direction of movement and speed of the physical entities, and a growth level that corresponds to a mass.

(D) Whether the invention, as defined in claims 25-28, is patentable under 35 U.S.C. §103(a) over Mindrum, in view of Arellano. Mindrum teaches selecting for playback a time period of a recorded life story. Specifically, the issue is whether Mindrum teaches that the agitation simulation includes a process for changing the scenario element indexes when a collision occurs among the scenario element indexes.

(I) Rejection under 35 U.S.C. §103(a) over Mindrum, in view of Arellano, and further in view of Smith.

(A) Whether the invention, as defined in claims 4 and 11, is patentable under 35 U.S.C. §103(a) over Mindrum, in view of Arellano, and further in view of Smith. Smith teaches issuing a query, which is represented by a multi-dimensional vector based on the content or feature of an item, and computing the similarity of an issued query vector to each target vector of a database. Specifically, the issue is whether Smith is properly combined with Mindrum, and whether Smith teaches that a correlation among extracted element indexes is evaluated by using an angle formed by the vectors of the extracted element indexes.

(B) Whether the invention, as defined in claims 5 and 12, is patentable under 35 U.S.C. §103(a) over Mindrum, in view of Arellano, and further in view of Smith. Smith teaches issuing a query represented by a multi-dimensional vector based on the content or feature of an item and computing the similarity of an issued query vector to each target vector of a database. Specifically, the issue is whether Smith is properly combined with Mindrum, and whether Smith teaches that a correlation is obtained among extracted element indexes, which are simulated as pseudo points and scattered throughout a pseudo processing tank, that meet in the processing tank.

The Law

The rejections under appeal in the present case are each made under 35 U.S.C. §103(a). Inventions are patentable if novel and nonobvious. 35 U.S.C. §102 and 35 U.S.C. §103. The burden is on the patent examiner to establish a *prima facie* case of unpatentability by presenting prior art references teaching every element of the claim. M.P.E.P. §2142, ¶3; *In re Fritch*, 23

USPQ 2d 1781, 1783 (Fed. Cir. 1992); *In re Piasecki*, 223 USPQ 785, 787 (Fed. Cir. 1984). The Examiner has failed to establish a *prima facie* case of unpatentability. None of the cited references disclose or suggest all of the claimed features of the invention, alone or in combination.

The Examiner is required to support an obviousness rejection with reasonable specificity in order to establish a *prima facie* case. M.P.E.P. §2142 ¶5; *Ex parte Blanc*, 13 USPQ 2d 1383 (Bd. Pat. App. & Inter. 1989). The Examiner, however, has failed to explain how the cited art shows all the elements of the claimed invention. Consequently, because the Examiner has not met the burden of the *prima facie* case of obviousness, Applicants are not required to present evidence of non-obviousness. M.P.E.P. §2142, ¶1. Therefore, a rejection based on 35 U.S.C. §103(a) is improper and the claims, as written, should be allowed.

When combining or modifying references under 103(a), an Examiner must establish a *prima facie* case of obviousness or the rejection will be overturned. See *In re Rinehart*, 189 USPQ 143 (CCPA 1976); *In re Linter*, 173 USPQ 560 (CCPA 1972); *In re Saunders*, 170 USPQ 213 (CCPA 1971); *In re Tiffin*, 170 USPQ 88 (CCPA 1971), *amended*, 171 USPQ 294 (CCPA 1971); *In re Warner*, 154 USPQ 173 (CCPA 1967), *cert. denied*, 389 U.S. 1057 (1968). The seminal case of *Graham v. John Deere Co.*, 383 U.S. 1, illuminates three steps or factual inquiries that an Examiner must engage in to establish such a *prima facie* case of obviousness.

According to *Graham*, the examiner must: (1) set forth each of the differences between the claim and the reference(s) sought to be combined or modified; (2) set forth the proposed modification; and (3) explain why the proposed modification is obvious. 383 U.S. at 17. The case of *In re Jones* further explained that the third step in *Graham* amounts to a showing of some suggestion or motivation *in the prior art* that would lead one of ordinary skill in the art to pursue

the proposed modification. 21 USPQ.2d 1941, 1943 (Fed. Cir. 1992); see also *In re Vaeck*, 20 USPQ 2d 1438 (Fed. Cir. 1991). In the case of *In re Fritch*, the Court established that the prior art must have suggested the *desirability* of the modification. 23 USPQ2d 1780 (Fed. Cir. 1992). Further, the required suggestion or motivation in the prior art must be *clear and particular*. *In re Dembiczaak*, 50 USPQ 2d 1614 (Fed. Cir. 1999).

Having set forth the appropriate standard for establishing obviousness, the specific rejections are discussed hereinafter.

Application of the Law

I. Rejection under 35 U.S.C. §103(a) over Mindrum, in view of Arellano.

A. Claims 1-3, 6-10 and 13-18.

Applicants submit that, even if the Mindrum patent and the Arellano patent were combined as stated in the rejection, every limitation of independent claims 1 and 8 would not be taught or suggested, as required. First, neither Mindrum nor Arellano teaches or suggests “extracting, from said database, element indexes for multiple creation elements that match a selection reference” and “linking creation elements corresponding to element indexes that belong in said set, and outputting the results as a new creation,” as required by claim 1. Claim 8 recites similar limitations. The Examiner cites Mindrum for teaching these limitations (Office action, 08-03-2005, page 3). The deficiencies of Mindrum are discussed below. Second, neither Mindrum nor the Arellano patent teaches or suggests “calculating a correlation among information sets written in said extracted element indexes, and obtaining a set of element indexes from said extracted element indexes whose correlation satisfies an evaluation reference,” as required by claim 1. Claim 8 recites similar limitations. The Examiner acknowledges that

Mindrum does not teach or suggest these limitations, and therefore cites Arellano for this purpose (Office action 08-03-2005, page 3). The deficiencies of Arellano are discussed below.

1. Mindrum does not teach what it is cited for.

The teaching in Mindrum of viewing recordations of a recorded life story by a user is not the same as extracting element indexes for multiple creation elements that match a selection reference, and linking the creation elements corresponding to element indexes belonging to a set and outputting the linked creation elements as a new creation, as in claims 1 and 8.

Mindrum discloses that the data of a life story of a person may include documents, photos, audio, and video and may be tagged with a date, names, or a written description (col. 7, lines 18-31; col. 10, lines 29-36). In Mindrum, a database table may contain a field column for classifying the information about the recordation, a description column for describing each field, and a data column listing the data for each field (col. 10, lines 40-67). Mindrum also teaches that a user may *view* on a user interface, such as an interactive headstone, all the recordations of the recorded life story in chronological order by selecting an auto play selection mechanism 188 or an excerpt of the recordations of the recorded life story related to a period of time, as designated on a slider life line bar 185, by selecting a selection mechanism 186 (col. 16, lines 36-45; Fig. 14). Although a user in Mindrum may select a specific time period, the interactive headstone merely accesses and displays the recordations of the recorded life story that match the user's selected period of time. Since the recordations of the recorded life story are not element indexes, the Mindrum user interface does not teach extracting the element indexes for the recorded life story. Even if the database table information were considered element indexes for the recordations, Mindrum does not teach or suggest that the user interface extracts the database table information for the life story recordations that match the user's selected period of time. Thus,

Mindrum fails to disclose or suggest extracting element indexes for creation elements that match a selection reference, and the Mindrum user interface would need modifications to perform such a function.

Mindrum also discloses that the recorded life story is *created by a production worker* based upon a chosen format or style after data about the person is stored in a database (col. 11, lines 33-47). Since the recorded life story is created by a production worker, Mindrum does not teach or suggest that the user interface is creating a new life story or creation when displaying the recordations of the recorded life story. Thus, when the user interface displays an excerpt of the recordations of a recorded life story that matches the user's selected period of time, the user interface does not link these recordations in any way that would result in a new life story or creation. Therefore, Mindrum fails to teach or suggest linking creation elements corresponding to the element indexes belonging to a set and outputting the linked creation elements as a new creation, and the Mindrum user interface would need modifications to perform such a function.

Consequently, the prior art cited by the Examiner, whether alone or in combination, does not disclose or suggest every limitation of claims 1 and 8. Thus, a rejection of claims 1 and 8 under §103(a) is improper.

2. Arellano does not teach what it is cited for.

The teaching in Arellano of computing correlations between features and values the features can hold to a user, is not the same as calculating a correlation among information sets written in extracted element indexes and obtaining a set of element indexes from the extracted element indexes whose correlation satisfies an evaluation reference, as in claims 1 and 8.

Arellano discloses a user agent that computes correlations between features and values the features hold to a user in order to detect trends and patterns in the user's data (col. 9, lines 42-

53). Arellano also discloses that content elements characterize data of a multimedia application, and the content elements include text, audio, video, image, or multimedia (col. 17, lines 25-40; figs. 14-15). In Arellano, a feature-based filter can take a set of content elements and return a subset of the original inputs that match the feature (col. 17, lines 50-60; Fig. 16).

A user who views a multimedia application and the content elements of a multimedia application are clearly different in Arellano. Although Arellano discloses computing correlations with regard to the user's data to detect trends and patterns in the user's data, Arellano does not teach or suggest computing correlations among information corresponding to the content elements of the media application. Even if the features of the content elements are considered to be element indexes or the information sets written in element indexes, Arellano does not disclose or suggest computing a correlation among features of the content elements or obtaining a set of features whose correlation satisfies an evaluation reference. Therefore, Arellano and Mindrum, whether alone or in combination, do not teach or suggest every limitation of claim 1 and claim 8. Thus, a rejection of claim 1 and claim 8 under §103(a) is improper.

3. There is no motivation to combine the references.

There is no suggestion or motivation for one skilled in the art at the time of the invention was made to modify the Mindrum user interface of selecting for playback a time period of a recorded life story to include the Arellano elements of computing correlations with regard to a user's data to arrive the present invention.

Since the user in Mindrum merely views recordations of a recorded life story in chronological order or an excerpt of the recordations based on the user's selected time period, the Mindrum user interface does not deal with any user data. Therefore, there is no suggestion or motivation for the Mindrum user interface to be modified to compute correlations with regard

to the user's data as in Arellano. Also, although Arellano discloses information of content elements, Arellano only discloses computing correlations between features and feature-values and does not even suggest computing correlations among information of the content elements. Since Arellano clearly does not teach or suggest computing correlations among information of content elements, there is no suggestion or motivation in Arellano to modify the Mindrum user interface to compute correlations among information of the recorded life story. Further, since the recorded life story in Mindrum is created by a worker using a template based upon a chosen format and there is no change in the format of the recorded life story when a user views recordations of the recorded life story, there is no suggestion or motivation in Mindrum to modify the user interface to compute correlations among any information of the recorded life story.

Since there is no suggestion or motivation in Mindrum or Arellano that would lead one of ordinary skill in the art to modify the Mindrum user interface with the Arellano elements of computing correlations, the Examiner has not established a *prima facie* case of obviousness.

B. Claims 19-23 and 29-32.

Applicants submit that, even if the Mindrum patent and the Arellano patent were combined as stated in the rejection, every limitation of independent claims 19 and 31 would not be taught or suggested, as required. First, claims 19 and 21 recite similar limitations as those in claims 1 and 8, and as such, the corresponding arguments are applied to claims 19 and 31. Second, neither Mindrum nor Arellano teaches or suggests "agitation means for performing, according to a pseudo physical rule, agitation simulation for said plurality of scenario element indexes, and for repeating said agitation simulation until a set of scenario element indexes is obtained from said plurality of scenario element indexes that match an evaluation reference for a predetermined condition setting for a scenario creation" as recited in claim 19. Claim 31 recites

similar limitations. The Examiner fails to indicate where in Mindrum or Arellano such limitations are taught. The deficiencies of Mindrum and Arellano are discussed below.

1. Mindrum and Arellano do not teach what they are cited for.

Mindrum discloses that a life story about a person is created by a production worker based upon a chosen format or style after data about the person is stored in a database (col. 11, lines 33-47). In Mindrum, a user may view on a user interface, such as an interactive headstone, all the recordations of the recorded life story in chronological order by selecting an auto play selection mechanism 188 or an excerpt of the recordations of recorded life story related to a period of time by selecting a selection mechanism 186 (col. 16, lines 36-45; Fig. 14).

However, Mindrum does not teach or suggest agitation means. Mindrum fails to teach or suggest performing agitation simulation for a plurality of scenario element indexes that match a predetermined scenario element selection reference. Mindrum also fails to teach or suggest repeating such an agitation simulation until a set of scenario element indexes, which match an evaluation reference for a predetermined condition setting for a scenario creation, is obtained from the plurality of scenario element indexes.

Arellano does not overcome the deficiencies of the Mindrum reference. Arellano merely discloses computing computation between features and values the features hold to a user (col. 9, lines 42-53). Computing computations between features and feature-values in no way suggests performing agitation simulation for a plurality of scenario element indexes. Therefore, Arellano does not teach or suggest agitation means for performing agitation simulation for a plurality of scenario element indexes that match a predetermined scenario element selection reference. Arellano also fails to teach or suggest repeating the agitation simulation until a set of scenario

element indexes, which match an evaluation reference for a predetermined condition setting for a scenario creation, is obtained from the plurality of scenario element indexes.

Therefore, Arellano and Mindrum, whether alone or in combination, do not teach or suggest every limitation of claim 19 and claim 31. Thus, a rejection of claim 19 and claim 31 under §103(a) is improper.

2. There is no motivation to combine the references.

One skilled in the art would not have been motivated at the time of the invention to modify the Mindrum user interface Mindrum user interface of selecting for playback a time period of a recorded life story to include performing agitation simulation for a plurality of scenario element indexes that match a predetermined scenario element selection reference.

Since the recorded life story in Mindrum is created by a worker using a template based upon a chosen format or style and a user merely view recordations of the recorded life story in chronological order or an excerpt of the recordations based on the user's selected time period, the user interface does not change the recorded life story. Because the user interface does not change the recorded life story, there no reason or motivation for the user interface to perform agitation simulation on any information of the recorded life story. Therefore, there is no suggestion or motivation in Mindrum or Arellano that would lead one of ordinary skill in the art to modify the Mindrum user interface or to combine the references, and the Examiner has not established a *prima facie* case of obviousness.

C. Claim 24.

Applicants submit that, even if the Mindrum patent and the Arellano patent were combined as stated in the rejection, every limitation of dependent claim 24 would not be taught or suggested, as required. Neither Mindrum nor the Arellano patent teaches or suggests

“wherein, when said scenario element indexes are regarded as physical entities, said parameter includes the direction of movement and the speed of said physical entities, and a growth level that corresponds to a mass” as required by claim 24. The Examiner cites Mindrum for teaching these limitations (Office action, 08-03-2005, page 5). The deficiencies of Mindrum are discussed below.

1. Mindrum does not teach what it is cited for.

Mindrum discloses that the data of a life story of a person may include documents, photos, audio, and video and may be tagged with a date, names, or a written description (col. 7, lines 18-31; col. 10, lines 29-36). In Mindrum, a database table may contain a field column for classifying the information about the recordation, a description column for describing each field, and a data column listing the data for each field (col. 10, lines 40-67).

Although the recordations of the recorded life story may include documents, audio, and video, these recordations are not element indexes. Even if the database table information were considered element indexes, Mindrum does not teach or suggest that the database table information is ever regarded as physical entities. Mindrum also does not teach or suggest that a parameter includes the direction of movement and the speed of the physical entities, and a growth level that corresponds to a mass. Thus, Mindrum fails to disclose or suggest when the scenario element indexes are regarded as physical entities, a parameter includes the direction of movement and the speed of the physical entities and a growth level that corresponds to a mass; and the Mindrum user interface would need modifications to perform such a function.

Consequently, the prior art cited by the Examiner, whether alone or in combination, does not disclose or suggest every limitation of claim 24. Thus, a rejection of claim 24 under §103(a) is improper.

D. Claims 25-28.

Applicants submit that, even if the Mindrum patent and the Arellano patent were combined as stated in the rejection, every limitation of dependent claims 25-28 would not be taught or suggested, as required. Neither Mindrum nor the Arellano patent teaches or suggests “wherein, when said scenario element indexes are regarded as physical entities, said parameter includes the direction of movement and the speed of said physical entities, and a growth level that corresponds to a mass” as required by claim 24. The Examiner cites Mindrum for teaching these limitations (Office action, 08-03-2005, page 5). The deficiencies of Mindrum are discussed below.

1. Mindrum does not teach what it is cited for.

Mindrum discloses that the data of a life story of a person may include documents, photos, audio, and video and may be tagged with a date, names, or a written description (col. 7, lines 18-31; col. 10, lines 29-36). In Mindrum, a database table may contain a field column for classifying the information about the recordation, a description column for describing each field, and a data column listing the data for each field (col. 10, lines 40-67). Mindrum also discloses that the recorded life story is created by a production worker based upon a chosen format or style after data about the person is stored in a database (col. 11, lines 33-47).

The Examiner acknowledge that Mindrum creates a finished recorded life story without creating collisions between various media (Office action, 08-03-2005, page 5).

Since Mindrum discloses that the recorded life story is created by a production worker based upon a chosen format, the user interface does not include a process of changing any information of the recorded life story. Also, although the recordations of the recorded life story may include documents, audio, and video, these recordations are not element indexes. Even if

the database table information were considered element indexes, Mindrum does not teach or suggest that the database table information is changed when a collision occurs among the database table information. Therefore, Mindrum does not teach or suggest that the user interface includes a process for changing the scenario element indexes when a collision occurs among the scenario element indexes; and the Mindrum user interface would need modifications to perform such a function.

Consequently, the prior art cited by the Examiner, whether alone or in combination, does not disclose or suggest every limitation of claims 25-28. Thus, a rejection of claims 25-28 under §103(a) is improper.

II. Rejection under 35 U.S.C. §103(a) over Mindrum, in view of Arellano, and further in view of Smith

A. Claims 4 and 11.

Applicants submit that, even if the Smith patent was combined with the Mindrum and Arellano patents as stated in the rejection, every limitation of dependent claims 4 and 11 would not be taught or suggested, as required. Specifically, none of the references teach or suggest “wherein said correlation among said extracted element indexes is evaluated by using an angle formed by said n-dimensional vectors of said extracted element indexes” as required by claim 4. Claim 11 recites similar limitations. The Examiner acknowledges that the Mindrum does not teach or suggest these limitations, and therefore cites Smith for this purpose (Office action 08-03-2005, page 5). The deficiencies of Smith are discussed below.

1. Smith does not teach what it is cited for.

Smith discloses an information query system that issues a query, which is represented by a multi-dimensional vector based on the content or feature of an image, and then compares the

query vector to target vectors in a database (col. 4, lines 7-22; col. 5, lines 16-23). In Smith, the database retrieves the items with target vectors that are most similar to the query vector (col. 4, lines 23-25; col. 5, lines 24-30).

The Examiner refers to Smith, in col. 5, lines 10-15, Abstract, and Figs. 4-5, as teaching query approximation of a database using vector plotting, which form angles (Office action 08-03-2005, page 5). Although Smith discloses that a query may be represented as a multi-dimensional vector, Smith merely computes the similarity of the issued *query vector* to *each target vector* of the database. Smith does not compute the similarity among the target vectors. In Figures 4-5, Smith merely indicates diagrams that *illustrate* the result of a query process by the query system. In column 5, lines 10-15, and the Abstract, Smith does not teach anything about the query system using *an angle* formed by the vectors. Therefore, Smith does not teach or suggest that the similarity is evaluated by using an angle formed by the vectors. Thus, Smith fails to disclose or suggest that the correlation among extracted element indexes is evaluated by using an angle formed by the vectors of the extracted element indexes, and the Smith query system would need modifications to perform such a function.

Therefore, the cited references, whether alone or in combination, do not teach or suggest every limitation of claims 4 and 11. Thus, a rejection of claims 4 and 11 under §103(a) is improper.

2. There is no motivation to combine the references.

There is no suggestion or motivation for one skilled in the art at the time of the invention was made to modify the Mindrum user interface of selecting for playback a time period of a recorded life story to include the Smith elements of computing the similarity of an issued query vector to each target vector of a database to arrive the present invention. Since a user merely

views recordations of the recorded life story in chronological order or an excerpt of the recordations based on the user's selected time period, there is no reason or motivation for the Mindrum user interface to compute the similarity of a user's query to each recordation of the recorded life story. Since there is no suggestion or motivation in Mindrum or Smith that would lead one of ordinary skill in the art to modify the Mindrum user interface with the Smith elements of computing the similarity of an issued vector to vectors in a database, the Examiner has not established a *prima facie* case of obviousness.

B. Claims 5 and 12.

Applicants submit that, even if the Smith patent was combined with the Mindrum and Arellano patents as stated in the rejection, every limitation of dependent claims 5 and 12 would not be taught or suggested, as required. None of the references teach or suggest "wherein said extracted element indexes are simulated as pseudo points, and since said pseudo points are scattered throughout a pseudo processing tank, said correlation is obtained among said extracted element indexes that meet in said processing tank, and said extracted element indexes whose correlation satisfies said evaluation reference are linked together to form said set," as required by claim 5. Claim 12 recites similar limitations. The Examiner acknowledges that the Mindrum does not teach or suggest these limitations, and therefore cites Smith for this purpose (Office action 08-03-2005, page 5). The deficiencies of Smith are discussed below.

1. Smith does not teach what it is cited for.

Smith discloses an information query system that issues a query, which is represented by a multi-dimensional vector based on the content or feature of an image, and then compares the query vector to target vectors in a database (col. 4, lines 7-22; col. 5, lines 16-23). In Smith, the

database retrieves the items with target vectors that are most similar to the query vector (col. 4, lines 23-25; col. 5, lines 24-30).

The Examiner refers to Smith, in col. 5, lines 10-15, Abstract, and Figs. 4-5, as teaching query approximation of a database using vector plotting, which form angles (Office action 08-03-2005, page 5). However, these Smith sections clearly do not teach or suggest that the query system simulates extracted element indexes as pseudo points, that pseudo points are scattered throughout a pseudo processing tank, or that the correlation is obtained among extracted element indexes that meet in a processing tank. Thus, Smith fails to teach or suggest that the query system simulates extracted element indexes as pseudo points, that the pseudo points are scattered throughout a pseudo processing tank, and the correlation is obtained among extracted element indexes that meet in the processing tank; and the Smith query system would need modifications to perform such a function.

Therefore, the cited references, whether alone or in combination, do not teach or suggest every limitation of claims 5 and 12. Thus, a rejection of claims 5 and 12 under §103(a) is improper.

2. There is no motivation to combine the references.

There is no suggestion or motivation for one skilled in the art at the time of the invention was made to modify the Mindrum user interface of selecting for playback a time period of a recorded life story to include the Smith elements of computing the similarity of an issued query vector to each target vector of a database to arrive the present invention. Since a user merely views recordations of the recorded life story in chronological order or an excerpt of the recordations based on the user's selected time period, there is no reason or motivation for the Mindrum user interface to compute the similarity of a user's query to each recordation of the

recorded life story. Since there is no suggestion or motivation in Mindrum or Smith that would lead one of ordinary skill in the art to modify the Mindrum user interface with the Smith elements of computing the similarity of an issued vector to vectors in a database, the Examiner has not established a *prima facie* case of obviousness.

Conclusion

For all of the above reasons, every limitation of the claims has not been taught or suggested by the cited reference, or any combination thereof. The Examiner has failed to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a), because the prior art cited by the Examiner, even taken in combination, fails to teach all the limitations of the claims.

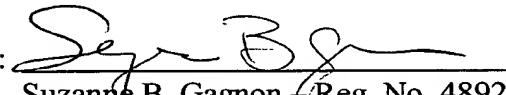
The cited references do not teach extracting element indexes for creation elements that matches a selection reference, and linking creation elements corresponding to element indexes belonging to a set and outputting the linked creation elements as a new creation, as in claims 1, 8, 19, and 31. The cited references do not teach or suggest performing agitation simulation for extracted scenario element indexes until a set of scenario elements is obtained that matches an evaluation reference for a predetermined condition setting for a scenario creation as in claims 19 and 31. The cited references do not teach or suggest that the scenario element indexes are regarded as physical entities and a parameter includes the direction of movement and speed of the physical entities, and a growth level that corresponds to a mass as in claim 24. The cited references do not teach or suggest that the agitation simulation includes a process for changing the scenario element indexes when a collision occurs among the scenario element indexes as in claims 25-28. The cited references do not teach or suggest that a correlation among extracted element indexes is evaluated by using an angle form by the vectors of the extracted element indexes as in claims 4 and 11. The cited references do not teach or suggest that a correlation is

obtained among extracted element indexes, which are simulated as pseudo points, scattered throughout a pseudo processing tank, that meet in the processing tank as in claims 5 and 12.

Furthermore, there is no motivation in the prior art to combine the references to achieve the functionality of the claimed invention. Each claim is rejected base on the combinations of elements found in different references without any suggestion or motivation in those references to make the combination.

Accordingly, it is respectfully submitted that the Examiner has not established a *prima facie* case of obviousness in making each of the appealed rejections. Therefore, it is hereby requested that each of Examiner's rejections be reversed.

Respectfully submitted,
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37 CFR § 41.37(c)(1)(viii) – CLAIMS APPENDIX

1 **Claim 1:** A creation production support method
2 comprising the steps of:
3 storing, in a database, elements of a creation along
4 with added corresponding element indexes;
5 extracting, from said database, element indexes for
6 multiple creation elements that match a selection
7 reference;
8 calculating a correlation among information sets
9 written in said extracted element indexes, and obtaining
10 a set of element indexes from said extracted element
11 indexes whose correlation satisfies an evaluation
12 reference; and
13 linking creation elements corresponding to element
14 indexes that belong in said set, and outputting the
15 results as a new creation.

1 **Claim 2:** A creation production support method
2 according to claim 1, wherein said creation elements are
3 either music elements, scenario elements or original
4 picture elements.

1 **Claim 3:** A creation production support method
2 according to claim 1, wherein said element indexes

3 include 5W1H information that represents the contents of
4 a pair of said elements.

1 **Claim 4:** A creation production support method
2 according to claim 1, wherein information written in said
3 extracted element indexes consists of n sets of
4 information to represent said information using n-
5 dimensional vectors; and wherein said correlation among
6 said extracted element indexes is evaluated by using an
7 angle formed by said n-dimensional vectors of said
8 extracted element indexes.

1 **Claim 5:** A creation production support method
2 according to claim 1, wherein said extracted element
3 indexes are simulated as pseudo points, and since said
4 pseudo points are scattered throughout a pseudo
5 processing tank, said correlation is obtained among said
6 extracted element indexes that meet in said processing
7 tank, and said extracted element indexes whose
8 correlation satisfies said evaluation reference are
9 linked together to form said set.

1 **Claim 6:** A creation production support method,
2 wherein, for either a scenario, music or an original
3 picture string providing a story (hereinafter referred to

4 as a creation A, while one of the remaining
5 creations is referred to as a creation B) that is
6 automatically generated by said creation production
7 support method according to claim 1, a creation B
8 corresponding to said creation A is automatically
9 produced, by said creation production support method
10 according to claim 1, using a creation element belonging
11 to said creation B, to which an element index is added
12 that includes the same information as information written
13 in an element index that is added as a counterpart of a
14 creation element of said creation A.

1 **Claim 7:** A creation production support method
2 according to claim 6, wherein said same information
3 includes 5W1H information representing the content of
4 said counterpart creation element, and sensory
5 information.

1 **Claim 8:** A creation production support apparatus
2 comprising:
3 a database for storing creation elements with added
4 corresponding element indexes;
5 extraction means for extracting, from said database,
6 element indexes for multiple creation elements that match
7 a selection reference;

8 calculation means for calculating a correlation
9 among information sets written in said extracted element
10 indexes, and for obtaining a set of element indexes from
11 said extracted element indexes whose correlation
12 satisfies an evaluation reference; and
13 output means for linking creation elements
14 corresponding to element indexes that belong to said set,
15 and for outputting the results as a new creation.

1 **Claim 9:** A creation production support apparatus
2 according to claim 8, wherein said creation elements are
3 either music elements, scenario elements or original
4 picture elements.

1 **Claim 10:** A creation production support apparatus
2 according to claim 8, wherein said element indexes
3 include 5W1H information that represents the contents of
4 a pair of said creation elements.

1 **Claim 11:** A creation production support apparatus
2 according to claim 8, wherein information written in said
3 element indexes consists of n sets of information to
4 represent said information by n-dimensional vectors; and
5 wherein said calculation means evaluates said correlation
6 among said extracted element indexes by using an angle

7 formed by said n-dimensional vectors of said extracted
8 element indexes.

1 **Claim 12:** A creation production support apparatus
2 according to claim 8, wherein said calculation means
3 simulates, as pseudo points, said extracted element
4 indexes, and since said pseudo points are scattered
5 throughout a pseudo processing tank, said correlation is
6 obtained among said extracted element indexes that meet
7 in said processing tank, and said extracted element
8 indexes whose correlation satisfies said evaluation
9 reference are linked together to form said set of element
10 indexes.

1 **Claim 13:** A creation production support apparatus,
2 wherein, for either a scenario, music or an original
3 picture string providing a story (hereinafter referred to
4 as a creation A, while one of the remaining creations is
5 referred to as a creation B) that is automatically
6 generated by said creation production support method
7 according to claim 1, a creation B corresponding to said
8 creation A is automatically produced, by said creation
9 production support method according to claim 1, using a
10 creation element belonging to said creation B, to which
11 an element index is added that includes the same

12 information as information written in an element index
13 that is added as a counterpart of a creation element of
14 said creation A.

1 **Claim 14:** A creation production support apparatus
2 according to claim 13, wherein said same information
3 includes 5W1H information representing the content of
4 said counterpart creation element, and sensory
5 information.

1 **Claim 15:** A creation production support apparatus
2 according to one of claims 8 to 14, wherein said database
3 is provided in an external storage device for a stand-
4 alone computer.

1 **Claim 16:** A creation production support apparatus
2 according to one of claims 8 to 14, wherein said database
3 is provided for a server connected to a LAN, and said
4 extraction means, said calculation means and said output
5 means are provided for a client connected to said LAN.

1 **Claim 17:** A creation production support apparatus
2 according to one of claims 8 to 14, wherein said database
3 is provided for a server, and said extraction means, said
4 calculation means and said output means are provided for

5 a terminal device connected to said server via the
6 Internet.

1 **Claim 18:** A creation production support apparatus
2 according to claim 17, wherein a program that includes
3 said extraction means, said calculation means and said
4 output means is downloaded from said server to said
5 terminal device.

1 **Claim 19:** A scenario creation support apparatus
2 comprising:

3 storage means for storing scenario elements that
4 constitute parts of scenarios and corresponding scenario
5 element indexes;

6 extraction means for extracting, from said storage
7 means, a plurality of scenario element indexes that match
8 a predetermined scenario element selection reference;

9 agitation means for performing, according to a
10 pseudo physical rule, agitation simulation for said
11 plurality of scenario element indexes, and for repeating
12 said agitation simulation until a set of scenario element
13 indexes is obtained from said plurality of scenario
14 element indexes that match an evaluation reference for a
15 predetermined condition setting for a scenario creation;

16 recovery means for comparing said scenario element

17 indexes in said set with paired corresponding scenario
18 elements to recover a set of scenario elements;
19 scenario linking means for linking of scenario
20 elements in said set of scenario elements to generate and
21 output a new scenario; and
22 editing means for changing predetermined phrases in
23 said scenario elements of said new scenario according to
24 a predetermined table.

1 **Claim 20:** A scenario creation support apparatus
2 according to claim 19, wherein said storage means stores,
3 as a pair, a scenario element and a scenario element
4 index that jointly describe the contents of said scenario
5 element; and wherein said extraction means also extracts
6 a scenario element index corresponding to a scenario
7 element that matches said scenario element selection
8 reference.

1 **Claim 21:** A scenario creation support apparatus
2 according to claim 20, wherein each of said scenario
3 element indexes includes at least one entry that
4 corresponds to each setup for 5W1H and that describes a
5 condition setting for said scenario element, and an entry
6 of an adjective or an adjective verb that corresponds to
7 said scenario element.

1 **Claim 22:** A scenario creation support apparatus
2 according to claim 19, wherein said agitation simulation
3 is based on an agitation process for which genetic
4 algorithms are used.

1 **Claim 23:** A scenario creation support apparatus
2 according to claim 19, wherein a scenario element is
3 formed by providing, as a parameter, a condition setup
4 required to perform said agitation simulation for said
5 plurality of scenario element indexes stored in said
6 storage means; and wherein, based on said obtained
7 scenario element, a simulation of an agitation process is
8 performed for said scenario element indexes.

1 **Claim 24:** A scenario creation support apparatus
2 according to claim 23, wherein, when said scenario
3 element indexes are regarded as physical entities, said
4 parameter includes the direction of movement and the
5 speed of said physical entities, and a growth level that
6 corresponds to a mass.

1 **Claim 25:** A scenario creation support apparatus
2 according to claim 23, wherein said agitation

3 simulation includes a replacement process for changing,
4 in consonance with a predetermined condition, one part of
5 the entries in said scenario element indexes when a
6 collision occurs among said scenario element indexes.

1 **Claim 26:** A scenario creation support apparatus
2 according to claim 23, wherein said agitation simulation
3 includes a generation process for employing, in
4 consonance with a predetermined condition, one part of
5 the entries in said scenario element indexes to generate
6 a new scenario element index and a new scenario element
7 when a collision occurs among said scenario element
8 indexes.

1 **Claim 27:** A scenario creation support apparatus
2 according to claim 23, wherein said agitation simulation
3 includes a linking process for linking, in consonance
4 with a predetermined condition, said scenario element
5 indexes when a collision occurs among said scenario
6 elements.

1 **Claim 28:** A scenario creation support apparatus
2 according to claim 23, wherein said agitation simulation
3 includes an arrangement process for linking and
4 arranging, in consonance with a predetermined condition,

5 said scenario element indexes when a collision occurs
6 among said scenario elements.

1 **Claim 29:** A scenario creation support apparatus
2 according to claim 23, wherein said agitation simulation
3 includes an erasing process for erasing, in consonance
4 with a predetermined condition, said scenario element
5 indexes.

1 **Claim 30:** A scenario creation support apparatus
2 according to claim 23, wherein said agitation means,
3 based on a scenario element provided as a parameter that
4 employs a scenario pattern as a setting condition,
5 executes a simulation of an agitation process using said
6 scenario pattern.

1 **Claim 31:** A scenario creation support method
2 comprising:
3 a storage step for the storage of scenario elements,
4 which are components of a scenario, and paired scenario
5 element indexes, which represent the contents of said
6 scenario elements;
7 an extraction step for the extraction, from said
8 scenario elements and said scenario element indexes that
9 are stored, of a plurality of scenario element indexes

10 that match a predetermined scenario element selection
11 reference;
12 an agitation step for the performance, in accordance
13 with a pseudo physical rule, of an agitation simulation
14 for said plurality of scenario element indexes, and for
15 the repetition of said agitation simulation until a set
16 of scenario element indexes is obtained from said
17 plurality of scenario element indexes that, for scenario
18 creation, match an evaluation reference for a
19 predetermined condition setting;
20 a recovery step for the recovery of a set of
21 scenario elements by comparing said scenario element
22 indexes in said set with paired scenario elements;
23 a scenario linking step for the linking of scenario
24 elements of said set of scenario elements to generate and
25 output a new scenario; and
26 an editing step of employing a predetermined table
27 to change, in said scenario elements of said new
28 scenario, predetermined phrases of said new scenario.

1 **Claim 32:** A computer-readable storage medium on
2 which a program is stored for the execution of a scenario
3 creation method according to any one of claims 1 to 7 or
4 31.

37 CFR § 41.37(c)(1)(ix) – EVIDENCE APPENDIX

The following is a list of evidence relied upon by the Examiner as to grounds of rejection of which Appellant has requested review in the pending appeal:

1. U.S. Patent No. 6,340,978 to Mindrum, which was entered in the record by the Examiner in the "Notice of References Cited" (Form PTO-892) issued as part of an Office action communication, Paper No. 20050108, and having a mailing date of January 14, 2005.
2. U.S. Patent No. 6,694,482 to Arellano et al., which was entered in the record by the Examiner in the "Notice of References Cited" (Form PTO-892) issued as part of an Office action communication, Paper No. 20050108, and having a mailing date of January 14, 2005.
3. U.S. Patent No. 6,694,311 to Smith, which was entered in the record by the Examiner in the "Notice of References Cited" (Form PTO-892) issued as part of an Office action communication, Paper No. 20050108, and having a mailing date of January 14, 2005.

Enclosures: Copy of U.S. Patent No. 6,340,978 to Mindrum
Copy of U.S. Patent No. 6,694,482 to Arellano et al.
Copy of U.S. Patent No. 6,694,311 to Smith

Appln. No. 09/869,647
Appeal Brief Dated August 3, 2006
In Support of Notice of Appeal filed January 3, 2006

37 CFR § 41.37(c)(1)(ix) – RELATED PROCEEDINGS APPENDIX

None.